

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

State of Oklahoma, et al.,)	05-CV-0329 GKF-SAJ
)	
Plaintiffs,)	
)	
v.)	<u>ERRATA CORRECTION</u>
)	<u>TO DOCUMENT</u>
Tyson Foods, Inc., et al.,)	
)	
Defendants.)	
)	

On December 4, 2007 Defendants Cargill, Inc. and Cargill Turkey Production, LLC (together, the “Cargill Defendants”) filed The Cargill Defendants’ Supplemental Briefing in Support of Sanctions for Plaintiffs’ Abuse of Rule 33(D) (Dkt. #1389). On page 5 of said document, a citation was inadvertently omitted and stated merely “citation to transcript.”

The Cargill Defendants submit herewith a corrected version of page 5, showing the correct citation to the transcript.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on the 6th day of December, 2007, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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The replies to interrogatories may be used for purposes of impeachment if the oral examination leads to contradiction.” Id.

Here, the Cargill Defendants require a 30(b)(6) deposition to explore and cut through Plaintiffs’ playing word games with written discovery. For example, despite this Court’s detailed Order of May 17, Plaintiffs would not admit that they in fact have no direct evidence of wrongdoing by the Cargill Defendants until their response to the Cargill Defendants’ motion seeking sanctions for Plaintiffs’ failure to provide just that information. Similarly, on the Rule 33(d) issue, Plaintiffs have only asserted the conclusion that they “overused” the discovery response tool. (Docket No. 1317 at 39.) Plaintiffs have never offered the Court or the Cargill Defendants an explanation for why or how they verified the erroneous designation of numerous documents under Rule 33(d). (See id. at 64.) To the contrary, Plaintiffs previously averred to the Court that those specific Rule 33(d) designations were entirely proper. (See Pls.’ Resp. Opp’n Cargill Defs.’ Mot. Compel: Docket No. 1086 at 8, 9, 10, 13.) At the April 27, 2007 hearing on the Cargill Defendants’ motion to compel, counsel for Plaintiffs relatedly represented that they would produce responsive documents “to the extent there are outstanding [Rule 33(d)] interrogatories.” (Docket No. 1144 at 91.) As this Court noted at the September 27th hearing, Plaintiffs first “said it was there and not you’re saying it’s not.” (Docket No. 1317 at 64.)

At present, the record here contains two contradictory representations: a sworn representation by Plaintiffs that the evidence supporting many of Plaintiffs’ contentions against the Cargill Defendants may be gleaned from documents Plaintiffs have produced (Cargill Interrog. Nos. 3, 16; CTP Interrog. Nos. 6, 13, 15), and an in-court representation by Plaintiffs’ attorneys that those documents do not in fact contain that evidence. (Docket No. 1317 at 39, 52.) Both of these statements cannot be true. Either: